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## GROUP 3600

## BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/401,875
Filing Date: September 23, 1999
Appellant(s): ZEIGLER ET AL.

Denis G. Maloney
For Appellant

## EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/31/2006 appealing from the Office action mailed

02/06/2006.

## (2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## (3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-23.

Claims 24-41 have been canceled in amendment dated 5/25/2004 and entered on 11/16/2004 when prosecution was reopened following an appeal brief being filed on 8/12/2004.

## (4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

## (5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

## (6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: The rejection of claims 1-23 under 35 U.S.C. 101 as directed to non-statutory subject matter has been overcome and the rejection withdrawn by Examiner (see advisory action mailed 08/27/2006).

## WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. : The rejection of claims 1-23 under 35 U.S.C. 101 as directed to non-statutory subject matter has been withdrawn (see advisory action mailed 8/27/2006).

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

WO 91/14231                          Gutternam et al.                          09-1991

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:


*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.


Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

· Specifically as to claim 1, the claim is indefinite.

Claim 1 recites the limitation "additional aggregates" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "additional...reserve quotes" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the order" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Specifically as to claim 13, it is unclear "for a server process that...aggregates quotes and causes aggregate quotes" the metes and bounds of the claim are unclear.

Specifically as to claims 14 and 15, the claim is indefinite and vague as to what is really being claimed.

Specifically as to claims 18 and 20, the metes and bounds of the claim cannot be defined; therefore, the claim is indefinite. Specifically, is the applicant claiming a "client station" or a method of entering quotes? Lines 2-3 appear to refer to what function the station is capable of performing and then followed by lines 4-7 which appear to be describing the quotes. Is applicant claiming the combination/subcombination? Applicant should correct and clarify.

Claim 23 recites the limitation "the system" in line 5. There is insufficient antecedent basis for this limitation in the claim.

## *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Gutternam et al. (WO 91/14231).

Specifically as to claim 1, Gutterman et al. disclose a method, executed in a computer server system of an electronic market, for managing quotes for a security, the method comprising: receiving by the server computer system from client systems used by market participants, additional aggregate quotes, the additional aggregate quotes having a size value with the additional aggregate quotes being quotes that are displayable on displays of client systems, as trading interest in a security, but not being attributable to any market participant (see page 1, paragraphs 1 and 3; page 6, paragraphs 3 through page 7 paragraph 4 and page 9 paragraph 5 through paragraph 2 on page 11, and pages 14-16)

Specifically as to claim 2, receiving, by the server computer system, quotes from client systems used by market participants that are displayable quotes and attributable to corresponding ones of the market participants, see above rejection for claim 1, in addition, see pages 14- 16.

Specifically as to claim 3, receiving, by the server computer system, quotes from client systems that are reserve quotes, which are neither displayable quotes nor attributable to market participants, but are available as trading liquidity in the security (see page 16, paragraph 1 and 2 and page 17.)

Specifically as to claim 4, determining, by the server computer system, total aggregate quote sizes of displayable quotes received from market participants (page 22).

Specifically as to claim 5, determining, by the server computer system, the total aggregate quote

sizes by adding received quotes and additional aggregate quotes received for the security at

corresponding price levels to provide the total aggregate quote sizes at each of the corresponding

price levels; displaying, on displays of client systems the attributable quotes in an advertisement

portion of a quote montage (see fig 3a, page 23-24).

Specifically as to claim 6, adding, by the server computer system, liked-priced quotes of the

displayable and additional aggregate quote type together to provide a total aggregate quote (see

pages 23-24 and figure 5 and 6).

Specifically as to claim 7, displaying, on displays of client systems, the attributable quote in a

current quote window and additional aggregate quote in an aggregate window( see pages 23-24

and figures 3a, 5 and 6).

Specifically as to claim 8, determining, by the server computer system, if the additional

aggregate quotes and displayable quotes are proprietary or agency quotes; determining, by the

server computer system, a total of all agency quotes and proprietary quotes; and displaying on

displays of client systems a total of all agency quotes and a total of all aggregate quotes, which

includes the total agency quotes and proprietary quotes (see page 24).

Specifically as to claim 9, determining, by the server computer system, if the quote is a

displayable or additional aggregate quote type; adding, by the server computer system, the quote

to all other quotes of the marketable and additional aggregate quote types at price levels of the

quote to provide a total aggregate quote size at the price levels; displaying on displays of client

systems in a first montage, the quote, if the quote is displayable and in a different portion of the

montage the total aggregate quote size ( see figures 3a, 4-6 and pages 23-26).

Specifically as to claim 10, receiving, by the server computer system, a reserve quote (see page
14).

Specifically as to claim 11, receiving, by the server computer system, an order; and

executing, by the server computer system, the order against a quote, stored in the server

computer system (see page 14).

Specifically as to claim 12, executing, by the server computer system, additional aggregate

quotes and reserve quotes against any balance of the order (see pages 14-16).

Specifically as to claim 13, Gutterman et al. disclose an electronic market for trading of

securities, the market comprising: a plurality of client systems for entering quotes for securities

specifying a price level and a quote size, with the quotes being quotes that are displayable and

attributable to a specific market participant or additional aggregate quotes that are displayable

but not attributable to a specific market participant; and a server computer system that receives

the quotes from the client systems, aggregates the quotes and causes totals of aggregate quotes

for a plurality of price levels to be displayed on displays in data communication with the client

systems, see abstract and page 1, paragraphs 1 and 3; page 6, paragraphs 3 through page 7

paragraph 4 and page 9 paragraph 5 through paragraph 2 on page 11, and pages 14-16.

Specifically as to claims 14, wherein at client systems quotes can be entered at a price level a

quote size that are reserve quotes that are neither displayable nor attributable to a specific market

participant (see above rejection for claim 13, in addition, see pages 14- 16).

Specifically as to claims 15, wherein the aggregated quotes are displayed on the displays in a

graphical user interface that includes an aggregate montage for displaying aggregate quotes at

multiple price levels on either side of the market (see above rejection for claim 13, in addition see figures 5-6 and page 23).

Specifically as to claims 16, wherein the aggregated quotes are displayed on the displays in a graphical user interface comprising fields that contain total aggregated interest and agency interest (see figures 3a, 4-6 and pages 23-26)..

Specifically as to claims 17, wherein quotes attributable to a specific market participant and are displayed on the displays in a graphical user interface that includes a current quote montage, disposed adjacent to the aggregate quote montage (see above rejection for claim 13, in addition see figures 5-6 and page 23).

Specifically as to claim 18, Gutterman et al. disclose a client system for entering quotes for securities, the client station comprising: a display rendering a graphical user interface at which quotes can be entered at a price level, said graphical user interface comprising controls to enter a quote having a size, the quote being displayable and attributable to a specific market participant, a reserve quote, having a size, the reserve quote being neither displayable nor attributable to a specific market participant, and an additional aggregate quote, having a size that is displayable but not attributable to a specific market participant, see abstract and pages 1-11, page 23 and 26).

Specifically as to claim 19, wherein the graphical user interface is an aggregation montage and, the interface further includes a current quote montage for displaying attributable quotes (see above rejection and citations for claims 18 and 15.

Specifically as to claims 20, Gutterman et al. disclose a graphical user interface for an electronic market for trading products, the graphical user interface comprising, an aggregation window that displays additional aggregate quotes for a plurality of price levels of a product traded in the

market, the aggregate quotes including quotes that are attributable to market participants and

quotes that are displayable quotes but are not attributable to any market participants (see page 1,

paragraphs 1 and 3; page 6, paragraphs 3 through page 7 paragraph 4 and page 9 paragraph 5

through paragraph 2 on page 11, and pages 14-16, 23 and 25)

. Specifically as to claims 21, a current quote window disposed adjacent the aggregation window

(see figures 5-6).

Specifically as to claims 22, a current quote window disposed adjacent the aggregation window

and wherein said current quote window displays current displayable quotes of participants in the

system (see figures 4 and 5-6).

Specifically as to claims 23, a current quote window disposed adjacent the aggregate window

and wherein said current quote window displays current displayable quotes of participants in the

electronic market, and further comprises, a quote that represents total aggregate quotes at a

current market level displayed in the aggregation window (see fig. 4 and figs. 5-8).

### (10) Response to Argument

With regards to the 35 USC 112 second paragraph rejection argument. Appellant has

mistakenly titled the appellant's section of the arguments to this rejection as arguments against a

112 first paragraph rejection. It appears to be a typographical error, appellant should correct.

With regards to the appellant's argument against the 35 USC 112 second paragraph

rejections, Examiner disagrees. The claims, as explained above are indefinite and as recited

above are lacking in antecedent basis.


With regards to appellant's arguments that claims 1-23 are not anticipated by Gutterman

et al. (WO91/14231), Examiner disagrees. Appellant claims each and every element of claim 1,

specifically the features of "aggregate quotes having a size" and that theses quotes are

"displayable as trading interest in a security, but are not attributable to any market participant'

have not been addressed by the prior art. While the appellant may be using the specific term

'quote' and 'aggregate quotes' these terms are within the scope of the terms used in Gutterman et

al for describing the same as stock options, trading and futures contract trading. Gutterman et

al. discloses, as indicated in the above rejections, aggregate quotes of a size (as trading prices

and futures prices). Appellant claims Gutterman et al. does not disclose 'quotes' but as

previously explained by the examiner, the various terms used by Gutterman for example futures

prices stock options prices etc. are within the scope of appellants use of the term 'quotes.'

Moreover, in Barron's Business and Financial guides entitles "Dictionary of Business

Terms" and Dictionary of Finance and Investment Terms" appellants term 'quote' cannot be

found, only the use of futures options, exchanges and markets, but no use of the term 'quote' as

provided by the appellant.

With regards to appellant's argument that Gutterman et al. does not disclose receiving a

second, different type of order, Examiner disagrees. Gutterman et al. clearly describes receiving

more than one order (see pages 4 and 14).

With regards to appellant's argument that Gutterman does not describe quotes that are

'neither displayable quotes nor attributable', Examiner disagrees. In response to appellants

argument that Gutterman et al. does not disclose 'determining total aggregate quote size and

determining by adding received quotes and additional aggregate quotes received for the security

at corresponding price levels to provide total aggregate quote sizes at each of the corresponding

price levels and displaying the attributable quotes in an advertisement portion of a quote montage

see above rejection of claims 4-9. With regards to appellant's argument that appellant's system

differs from Gutterman et al.'s system because appellant's includes execution against the

aggregate and reserve quotes as performed by the system as part of an auto execution process,

Gutterman et al. inherently possesses aggregate or reserve prices. With regards to appellant's

argument that Gutterman does not describe quotes that are displayable and attributable to a

specific market participant, Examiner disagrees. Gutterman et al. disclose displayable and

attributable orders as seen and described in pages 23-26 and Figure 3a. With regards to

appellant's argument that Gutterman et al. does not describe a montage, Examiner disagrees. A

montage is a mixture of miscellaneous elements (as found in Webster's dictionary) and as such,

Gutterman et al. has a mixture of miscellaneous elements disclosed.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.
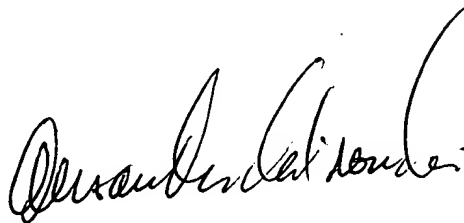
Respectfully submitted,

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